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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 HOWELL KAREEM,) Case No.: 1:22-cv-00046-SAB (PC)
12 Plaintiff,)
13 v.) ORDER DIRECTING CLERK OF COURT TO
14 PILKARTON, et al.,) TERMINATE THIS ACTION PURSUANT TO
15 Defendants.) PLAINTIFF'S NOTICE OF VOLUNTARY
16) DISMISSAL
) (ECF No. 5)
)

17 Plaintiff Howell Kareem is proceeding *pro se* in this civil rights action pursuant to 42 U.S.C. §
18 1983. The instant action was filed on January 11, 2022. On January 13, 2022, the Court directed
19 Plaintiff to either submit an application to proceed *in forma pauperis* or pay the \$402.00 filing fee.
20 (ECF No. 4.)

21 On January 26, 2022, Plaintiff filed a notice to voluntarily dismiss this action. (ECF No. 5.)
22 “[U]nder Rule 41(a)(1)(A)(i), ‘a plaintiff has an absolute right to voluntarily dismiss his action prior to
23 service by the defendant of an answer or a motion for summary judgment.’ ” Commercial Space
24 Mgmt. Co., Inc. v. Boeing Co., Inc., 193 F.3d 1074, 1077 (9th Cir. 1999) (quoting Wilson v. City of
25 San Jose, 111 F.3d 688, 692 (9th Cir. 1997)). The Ninth Circuit has held that Rule 41(a) allows a
26 plaintiff to dismiss without a court order any defendant who has yet to serve an answer or motion for
27 summary judgment. Pedrina v. Chun, 987 F.2d 608, 609 (9th Cir. 1993). “[A] dismissal under Rule
28 41(a)(1) is effective on filing, no court order is required, the parties are left as though no action had

1 been brought, the defendant can't complain, and the district court lacks jurisdiction to do anything
2 about it.” Commercial Space Mgmt. Co., Inc., 193 F.3d at 1078. In this action, no defendant has filed
3 an answer or other responsive pleading, and Plaintiff has the absolute right to dismiss this action.

4 Accordingly, it is HEREBY ORDERED that the instant action is terminated automatically
5 pursuant to Plaintiff’s notice of voluntary dismissal. Fed. R. Civ. P. 41(a)(1).

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7 IT IS SO ORDERED.

8 Dated: January 27, 2022


UNITED STATES MAGISTRATE JUDGE